



OURS BY RIGHT

**WOMEN'S RIGHTS AS
HUMAN RIGHTS**

Edited by

JOANNA KERR

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The North-South Institute

The Institute is a Canadian non-profit corporation established in 1976 to provide professional, policy-relevant research on the 'North-South' issues of relations between industrialized and developing countries. The results of this research are made available to policy makers, interested groups and the general public to help generate greater understanding and informed discussion of development questions. The Institute is independent and non-partisan, and cooperates with a wide range of Canadian, overseas and international organizations working in related activities.

FOREWORD

There is a growing conviction among women activists in virtually every country that women's rights are human rights. However, securing rights for women – rights within the family, rights to own property, rights to abortion, rights to vote, rights to move about freely without a husband's or male relative's agreement, rights to pass on citizenship – frequently have not been seen as central to 'development'. In countries of the North, the fight for legal rights has animated women's struggle for separate personhood, as legal rights have always been seen as stepping stones to (still elusive) equality. This struggle for just, legal treatment for women is now going on around the world.

There has been a peculiar myopia about women's rights in agencies which manage overseas development assistance. For about ten years, most aid agencies have had staff with particular responsibility for 'women in development' (WID). There have been 'gender training courses', special offices, special funds, and policies to 'integrate' women into development projects across the spectrum from civil aviation to agriculture. There has even been a change of rhetoric to include projects on 'women's empowerment'. In aid agencies, the WID staff – almost always women – are usually devoted, overworked and on the defensive. They must continually champion the utility of working on 'women and development'.

This book is based on the international conference 'Linking Hands for Changing Laws: Women's Rights as Human Rights Around the World'. The conference resulted from a discussion between myself and Rebecca Cook, the associate professor and director for the International Human Rights Programme at the University of Toronto's Faculty of Law. We felt very strongly that development agencies and donor institutions must catch up on the efforts of women in poor countries for legal equality. The conference brought together women who, through their scholarship and activism, are leading the fight in their countries for women's rights as human rights. Women and men from ministries of foreign affairs and aid agencies, and women from Canadian and American foundations, joined them for an exciting day and a half in Toronto. The conference provided an

opportunity to hear from women in the South. The resulting dialogue contributed to the international understanding and solidarity that is vital if the world is to become more economically equitable and if women are to have their rightful place within it.

Maureen O'Neil
President
The North-South Institute

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Joanna Kerr
The North-South Institute
Ottawa, Canada

Disclaimer

The presentations in this book are based on speeches given at the 'Linking Hands For Changing Laws' international conference on women's rights organized by the North-South Institute in Toronto, Canada, in September 1992. Opinions of the authors are their own and do not necessarily reflect those of the organizations for which they work.

GLOSSARY

CABW	Coordinated Action for Battered Women
CARICOM	Caribbean Community and Common Market
CECF-SP	Conselho Estadual da Condicao Feminina do Estado de Sao Paulo
CEDAW	Convention on the Elimination of all forms of Discrimination Against Women
CFEME	Centro Feminista de Estudos e Assessoria
CIDA	Canadian International Development Agency
CIM	Inter-American Commission of Women
CLADEM	Comite Latinoamericano para la Defensa dos Direitos da Mulher
CODESA	Conference on a Democratic South Africa
COSATU	Congress of South African Trade Unions
FIDA	Federation of Lawyers in Uganda
FLS	Forward-Looking Strategies
GAD	Gender and Development
GATT	General Agreement on Tariffs and Trade
ICT	Institute of Contextual Theology
ILO	International Labour Organization
IMF	International Monetary Fund
IWRAW	International Women's Rights Action Watch
LEAF	Women's Legal Education and Action Fund
NCW	National Coalition of Women
NGO	Non-Governmental Organization
OAS	Organization of American States
OECD	Organization for Economic Cooperation and Development
OECD/ DAC WID	OECD's Development Assistance Committee on Women in Development
PAC	Pan Africanist Congress
PRA	Participatory Rural Appraisals
SACC	South African Council of Churches
SADCC	Southern Africa Development and Coordination Conference
UNCED	United Nations Conference on Environment and Development
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNFPA	United Nations Population Fund
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNIFEM	United Nations Fund for Women
WHO	World Health Organization
WID	Women in Development
WILDAF	Women in Law and Development in Africa
WLSA	Women and Law in Southern Africa
WLUML	Women Living Under Muslim Laws

ABOUT THE CONTRIBUTORS

BARBARA ADAMS is a senior programme officer at the UN Non-Governmental Liaison Service in New York. She was previously associate director of the Quaker United Nations Office, and has worked as a consultant for UNICEF. She was an official observer at the 1985 Nairobi Conference of the UN Decade for Women.

GEORGINA ASHWORTH is founding director of CHANGE, launched in 1979 to do research and publish reports on the status of women internationally. She was research director of the Minority Rights Group, London, 1974–79 and Visiting Fellow at the Institute of Education, University of London 1986–89. Her most recent publication is as editor of *A Diplomacy of the Oppressed: Directions in International Feminism* (Zed Books 1993).

THE HON. EDWARD BROADBENT is president of the International Centre for Human Rights and Democratic Development in Montreal. From 1975 until 1989 he was federal leader of Canada's New Democratic Party. In 1978 he was elected vice-president of Socialist International, and was particularly involved in efforts to bring peace to Central America. Before entering active politics, he was Professor of Political Science at York University, Toronto.

CHARLOTTE BUNCH, feminist author, organizer, teacher and activist, has been a leading figure in the women's movement for over two decades. Her writings have appeared widely, and she has edited seven anthologies. She recently authored *Women's Rights as Human Rights: Towards a Revision of Human Rights*. She formerly held the Chair in Women's Studies at Douglass College, Rutgers University, New Jersey, and is currently professor in the School of Planning and Development and director of the Center for Women's Global Leadership at Rutgers.

FLORENCE BUTEGWA is the Uganda-born coordinator of the regional network of Women in Law and Development in Africa (WILDAF), based in Zimbabwe. She is an active member of the Federation of Lawyers in

Uganda (FIDA) and the author of *Challenges of Promoting Legal Literacy among Women in Uganda*.

REBECCA COOK is director of the International Human Rights Programme in the Faculty of Law, University of Toronto, where she is an associate professor. She is also associate professor in the Faculty of Medicine's Department of Health Administration and has published many articles on health law, international human rights, abortion and sex discrimination.

ANDRÉE COTÉ practised family law and social law in Montreal after being called to the Bar in 1984. She has taught courses on Women and Law, and Law and Sexuality, at l'Université du Québec à Montréal, and was director of Canada's Court Challenges Programme, based on the Canadian Charter of Rights and Freedoms, until it was wound up under the 1992 federal budget.

SHANTHI DAIRIAM has, for 17 years, been an activist working for women's organizations in Malaysia, particularly in the areas of violence against women and reproductive rights, with the object of inserting gender concerns into the mainstream of national planning. She has also worked with the Asia-Pacific Forum on Women, Law and Development.

SÉNY DIAGNE is a lawyer in Senegal. She has been deeply involved in the setting up and operation of a legal aid clinic in Dakar, and has been concerned with women's rights. She is a member of Women in Law and Development in Africa.

MARY EBERTS is a founder of the Women's Legal Education and Action Fund (LEAF), which handles test case litigation under the Canadian Charter of Rights and Freedoms on behalf of women's equality rights. She has appeared as counsel in a number of women's equality cases before the Supreme Court of Canada and provincial Courts of Appeal, most recently acting on behalf of the Native Women's Association of Canada to assert, under the Charter, a right to participate in the 1992 constitutional talks. She is a partner in a Toronto law firm, teaches constitutional litigation at the University of Toronto, and has served on the Board of the Metro Toronto Action Committee on Public Violence against Women and Children.

ARVONNE FRASER is the director of the International Women's Rights Action Watch in the United States. She is a Senior Fellow at the Humphrey Institute for Public Affairs at the University of Minnesota. She was the first coordinator of the Women in Development Programme at the US Agency for International Development (USAID). She recently headed the US delegation to the UN Commission on the Status of Women.

MARSHA FREEMAN is deputy director of the International Women's Rights Action Watch in the United States, which monitors the implementation of the UN Convention on the Elimination of All Discrimination Against Women (CEDAW). She is former president of Minnesota Women Lawyers and reporter for the Minnesota Committee on Gender Fairness in the Courts, and is a Senior Fellow at the Humphrey Institute of Public Affairs at the University of Minnesota.

CAROLYN HANNAN-ANDERSSON is the acting head of the Gender Office in SIDA (Swedish International Development Authority). She has worked for over ten years in the field of Gender and Development, doing field research and project consultancies before becoming a full-time member of the SIDA gender programme. She worked for many years in Tanzania.

MARIE-AIMÉE HÉLIE-LUCAS is the Algerian-born international coordinator of the Women Living Under Muslim Laws Network. The network is compiling and comparing versions of Muslim law enacted as family codes in some 50 countries to determine whether these are religiously or culturally inspired.

JOANNA KERR is a researcher at the North-South Institute, Ottawa, coordinator of the 'Linking Hands' conference in Toronto in September 1992, and editor of this book. She has an M.A. degree in Gender and Development from the Institute of Development Studies at the University of Sussex. Her current research focuses on women's legal rights, violence against women and the effects of macroeconomic policies on women.

KAREN KNOP is a special lecturer in the Faculty of Law, University of Toronto, and is preparing a dissertation examining the interaction of feminism and sovereignty. In 1988-89 she studied in the Faculty of Law at Moscow University, and went on to specialize in public international law and Soviet international law at Columbia University, New York.

BRIGITTE MABANDLA is a legal adviser to the African National Congress at the Conference on a Democratic South Africa (CODESA). Detained for five months in 1974 for student activism, she spent the next 15 years in exile, gaining her LLB degree at the University of Zambia. She is coordinator of research on the constitutional rights of women and children at the Community Law Centre, University of the Western Cape. She is also coordinating a review of the African Charter for the Protection of Human Rights.

ELIZABETH MCALLISTER is director-general of the Americas Branch in the

Canadian International Development Agency (CIDA). In the last decade, she has been director of CIDA's Women in Development Directorate, during which she chaired the OECD-DAC Expert Group on Women in Development, counsellor (Development) in the Canadian Embassy in Indonesia, and director of CIDA's China Programme.

CECILIA MEDINA is Professor of International Human Rights Law in the Law Faculty of the Universidad Diego Portales in Santiago, Chile. She has a doctorate in law from the University of Utrecht, The Netherlands, where in the 1980s she taught human rights and international economic organizations. In 1990 and 1991 she organized and taught training courses for judges and lawyers in South America on international human rights law.

RASHIDA PATEL is a member of the Pakistan Women's Lawyers Association and has argued cases before the High Courts and the Supreme Court of Pakistan. She is the author of *Pakistan: Muslim Women and the Law*. She is also President of the All Pakistan Women's Association.

SILVIA PIMENTEL is Professor of Law at the Catholic University in Sao Paulo. She is the author of books on women's rights and was a prominent lobbyist for the inclusion of women's rights in the present constitution of Brazil. She is a member of the Board of Directors of International Women's Rights Action Watch and a member of the Latin American Committee for the Defence of Women's Rights (CLADEM).

LINDA POOLE has, since 1986, been the executive secretary of the Inter-American Commission on Women, a specialized agency of the Organization of American States in Washington D.C.; she has been an officer with the OAS for 21 years. Through her work, she has provided technical aid to member countries in institution building and the development of advocacy programmes on behalf of women.

DOROTHY Q. THOMAS is director of the Women's Rights Project (a component of Human Rights Watch U.S.A.) which monitors violence against women and sex discrimination worldwide. In 1989 she worked in Namibia with the Lawyers' Committee for Civil Rights Under Law, monitoring the transition from South African rule to independence and democracy.

CONTENTS

FOREWORD	v
ACKNOWLEDGEMENTS	vii
GLOSSARY	viii
ABOUT THE CONTRIBUTORS	ix
PART I <i>Setting the Agenda</i>	1
1. The Context and the Goal JOANNA KERR	3
2. Getting Rid of Male Bias EDWARD BROADBENT	10
3. Gaining Redress Within a Human Rights Framework REBECCA COOK	13
PART II <i>Women's Rights – Country Experiences</i>	17
4. Change in South Africa – Advances for Women? BRIGITTE MABANDLA	19
5. Special Challenges Confronting Latin American Women SILVIA PIMENTEL	27
6. Challenges Facing Women in Pakistan RASHIDA PATEL	32
7. The Challenge of Promoting Women's Rights in African Countries FLORENCE BUTEGWA	40
8. Defending Women's Rights – Facts and Challenges in Francophone Africa SÉNY DIAGNE	43
9. Women Living Under Muslim Laws MARIE AIMÉE HÉLIE-LUCAS	52
10. Canadian Women's Legal Fight for Equality MARY EBERTS	65
11. Canada Kills the Court Challenges Programme ANDRÉE CÔTÉ	68

PART III	<i>Mechanisms for Change</i>	73
12.	Beyond Borders: Women's Rights and the Issue of Sovereignty KAREN KNOP	75
13.	Do International Human Rights Laws Protect Women? CECILIA MEDINA	78
14.	Holding Governments Accountable by Public Pressure DOROTHY Q. THOMAS	82
15.	Barriers to Funding for Women's Legal Rights: Some Critical Issues for Consideration by the North SHANTHI DAIRIAM	89
16.	Women, Development and Justice: Using the International Convention on Women's Rights MARSHA A. FREEMAN	93
17.	Aid Conditionality as a Lever for Women's Equality: Help or Hindrance? ELIZABETH McALLISTER	106
18.	The UN, World Conferences and Women's Rights BARBARA ADAMS	115
19.	Integrating, not Separating, Women in Development CAROLYN HANNAN-ANDERSSON	119
20.	Legal Developments and Reform in the Inter-American System LINDA J. POOLE	134
PART IV	<i>Strategies and Action</i>	139
21.	Organizing for Women's Human Rights Globally CHARLOTTE BUNCH	141
22.	Preparing for the Millennium: Challenge and Change GEORGINA ASHWORTH	150
23.	The 1995 UN Conference on Women in Beijing ARVONNE FRASER	153
24.	Conclusion: Strategies for Action JOANNA KERR	157
	BIBLIOGRAPHY	168
	APPENDIX	170
	INDEX	178

PART I
Setting the Agenda

1

The Context and the Goal

JOANNA KERR

'Women's rights are human rights' is a proclamation for justice.

Women have the right to food, shelter, property, reproductive choice, social security, health care and employment. Women have the right to political and religious freedom of expression, freedom from torture or slavery, access to education, and the civil privileges of citizens. Women have the right to a livelihood free from all forms of violence.

These are their inherent rights. Yet they are being denied. So pervasive and systemic are the human rights abuses against women that they are regarded as part of the natural order.

As UNICEF has pointed out, the enjoyment of human rights and fundamental freedoms is 'likely to depend on the one cruel chromosome'.¹ In countries where a 'son-preference' is associated with economic survival, intentional neglect of daughters and female malnutrition are commonplace. This quote from a Bangladeshi woman is a disturbing illustration:

How can you explain to children there is not enough food. When my son cries, I try to feed him. It is easier to make my daughter understand. . . . If there is less, we eat less. You have to feed men more, or they beat you. My son beats me if there is not enough food.²

In fact, according to one estimate, 100 million women are not alive today as a result of male-preference and female infanticide.³

For millions of women around the world, land ownership and access to credit are keys to survival, yet rarely their right. Current economic conditions and structural adjustment policies further deny women economic opportunity in every part of the world, without exception. Afshar and Dennis argue that:

Changes in levels and composition of public expenditure have had an adverse impact on women both as consumers of welfare and public sector services and as its providers and employees. Furthermore, the adjustment policies tend to reallocate public resources towards repayment of loans, rather than provision of basic needs.⁴

In only a few countries do women have the freedom to choose the

number of or spacing between children as government policy or social standards maintain authority over their bodies. In Brazil, for example, 7.5 million women of reproductive age are sterilized;⁵ in Ireland, sharing information on abortion is illegal; and in China, state law prohibits women from having more than one child.

Women remain invisible victims of political oppression and are inherently forgotten as political actors. They are routinely sexually abused as prisoners, imprisoned for peaceful beliefs and activities, tortured, denied the right to a fair trial, abducted, 'disappeared', and extra-judicially executed.⁶ These violations, assumed to be perpetrated only against men, prompted the 1992 Amnesty International special report on human rights abuses against women, which was long overdue. Women have yet to be safeguarded by the influence of international outrage and pressure.

Violence against women is the most pervasive abuse of human rights. It exists in various forms in everyday life in all societies. In Mexico, a woman is raped every nine minutes. An estimated 1,000 women are burned alive each year in dowry-related incidents in the state of Gujarat alone, in India. One in ten Canadian women are abused or battered by their husbands or partners.⁷ The world must recognize that the protection of women's bodies and identities is not a privilege, but a right.

The Traditional Human Rights Framework

The magnitude of women's human rights abuses demands international action. There are universally agreed human rights laws and conventions, such as the Universal Declaration of Human Rights, which guarantee rights and freedoms to all people. They create the frame of reference for citizens within their national contexts to make claims for their rights. According to Charlotte Bunch, 'the notion of human rights is one of the few moral visions ascribed to internationally and is one of the few concepts that speaks to the need for transnational activism and concern about the lives for people globally.'⁸

This framework of rights promotion, however, does not ensure the rights of women. The ideals and philosophy of the Universal Declaration of Human Rights, adopted by the UN in 1948, is intended to protect the rights of men, women and children around the world. Within this instrument, human rights are defined broadly – 'where no distinction should be made on the basis of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status.' 'Non-discrimination on the basis of sex' does not eradicate gender inequality, however, because of the way in which this convention is interpreted and implemented.

The Declaration on Human Rights has created a hierarchy of rights, putting a priority on civil and political rights. These are assumed to be easily